

REMARKS

Claims 1-7 and 10-17 and 19-20 are pending in this application.

I. Rejections Over the Prior Art:

Applicant here only justifies the patentability of the independent claims (i.e., Claims 1 and 10). As the Examiner will appreciate, should the independent claims be patentable over the prior art, narrower dependent claims would also necessarily be patentable. Accordingly, Applicant does not separately discuss the patentability of the dependent claims, although it reserves the right to do so at a later time if necessary.

Previously-pending independent Claims 1 and 10 (as well as all claims that depended therefrom) were rejected under 35 U.S.C. § 103(a) as being unpatentable over King, U.S. Patent No. 6,745,079. Applicant respectfully traverses this rejection for the reasons previously set forth. Moreover, Applicant respectfully asserts that to apply King under 35 U.S.C. § 103(a) in the manner which the Examiner has done is to apply hindsight. The subject matter of King relative to determining a minimum acceptable response is so far afield from that which Applicant is doing that regardless of King's teachings about determining a minimum acceptable response to prevent the generation of hydrogen and oxygen gases, that teaching has nothing whatsoever to do with Applicant's teachings of determining a threshold response at one stimulation level, and then determining the charge associated with that one stimulation level and applying that charge across all of the electrodes that are used to stimulate the neural tissue.

In addition, the Examiner's rejection clearly does not apply to amended independent Claims 1 and 10, which claims include additional limitations not found or suggested by King.

As amended, independent Claims 1 and 10 now require, *inter alia*, a differential amplifier to allow an electrically evoked action potential (ECAP) to be observed, and applying a stimulus at a fixed pulse width and magnitude sufficient to elicit an ECAP response to be observed using that differential amplifier. These added limitations to Claims 1 and 10 are fully supported by the specification, e.g., at Paragraphs [0044] and [0045].

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Based on the above remarks, Applicant respectfully submits that pending claims 1-7, 10-17 and 19-20 are allowable, and requests that a Notice of Allowance issue for these claims.

Respectfully submitted,

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